

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.25222 of 2005

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Dated:28.11.2005

Between:

Kidambi Suseelamma, W/o.Late Ranga Raja Ayyangar,
R/o.D.No.6-1-11,2/4, Arundelpet, Guntur-522 002, and others.

..... PETITIONERS

AND

The Revenue Divisional officer-Cum-Land Reforms Tribunal- Officer
Guntur Town-522004, Guntur District, and another.

.....RESPONDENTS

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ORDER:

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The first petitioner is the mother of petitioner Nos.2 and 3. They filed the present writ petition challenging the proceedings of the Revenue Divisional Officer-cum-Land Reforms Tribunal, Guntur, in C.C.Nos.618 and 1952/GNT/75, dated 02.09.2003, as illegal and unconstitutional. They seek a writ in the nature of writ of Certiorari to call for the records connected with the impugned proceedings and quash the same.

After coming into force of the A.P.Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, (for short 'the Act'), one Kidambi Tirumalacharyulu @ Ramanuja Charyulu filed a declaration under Section 8(1) of the Act, being C.C.No.618/GNT/75, before the Land Reforms Tribunal, the first respondent herein (hereinafter referred to as 'the Tribunal' for brevity) declaring an extent of Acs.193.72½ cents in his holdings situated in as many as nineteen various survey numbers. It appears, the second respondent herein claiming to be the adopted son of Tirumalacharyulu also filed a declaration, being C.C.No.1952/GNT/75. Even before they could be processed, Tirumalacharyulu died in September 1976. The

Tribunal processed the declaration and passed orders declaring the declarant as surplus landholder to the extent of Acs.4.52 standard holdings. Radha Krishnamacharyulu, the father of the second respondent, filed appeals before the Land Reforms Appellate Tribunal, which were allowed and remanded to the Tribunal for fresh enquiry. In the meanwhile, the first petitioner alleging that Tirumalacharyulu executed a Will dated 05.08.1976 in favour of her husband bequeathing all the properties in his favour, issued notices to all the defendants claiming ownership of the land. Be that as it is, after remand, the Tribunal issued notices to all the concerned, and none appeared in spite of service of notices. Therefore, it passed *ex parte* orders on 02.09.2003 (impugned in the writ petition) holding that Tirumalacharyulu held surplus land to the extent of 4.52768 standard holdings and directed the concerned Mandal Revenue Officer to take possession of that extent of the land. The said common order was passed in the declarations filed by Tirumalacharyulu as well as the second respondent herein.

The learned Counsel for the petitioners, Sri R.Prabhakar, submits that during the lifetime of Tirumalacharyulu, the father of the second respondent, Radha Krishnamacharyulu, filed O.S.No.40 of 1965 for declaration that the second respondent is the adopted son and that the same was dismissed. The second respondent also filed another suit, being O.S.No.51 of 1975, for declaration that he is the adopted son of Tirumalacharyulu, but later he withdrew the same as not pressed. Tirumalacharyulu filed written statements in O.S.No.40 of 1965 denying the allegations of the second respondent that the latter is adopted son and therefore, the second respondent cannot claim to be the adopted son of Tirumalacharyulu nor represent his estate. Insofar as the petitioners are concerned, Tirumalacharyulu executed Will in favour of the husband of the first petitioner, and therefore, they are alone entitled to succeed to the properties of late Tirumalacharyulu. The learned Counsel, however, does not dispute that against the orders of the Tribunal, there is an effective alternative remedy by way of an appeal to the Appellate Tribunal, which is not availed by the petitioners.

This Court has perused the Will dated 05.08.1976 executed by Tirumalacharyulu in favour of Ranga Raja Ayyangar (husband of the first petitioner and father of petitioner Nos.2 and 3), as well as the particulars of the properties declared by Tirumalacharyulu as shown in the impugned order. A *prima facie* appreciation would show that Tirumalacharyulu did not bequeath all the properties, which he declared before the Tribunal. Therefore, the petitioners cannot have any grievance – assuming the Will setup by them is true and valid, insofar as the entire proceedings of the Tribunal is concerned. Insofar as such other properties, which are allegedly bequeathed to the husband of the first petitioner, are concerned, nothing prevented the petitioners to file appropriate appeal before the Land Reforms Appellate Tribunal-cum-the Court of District Judge. Having waited for more than two years, the petitioners invoked the jurisdiction of this Court under Article 226 of the Constitution of India. For this reason alone, this Court cannot entertain the writ petition, and if the law so permits, it shall be open to the petitioners to approach the jurisdictional Land Reforms Appellate Tribunal by filing appeal, if so advised.

The Writ Petition, with the above observation, is accordingly dismissed. No costs.

(V.V.S.RAO, J)

28.11.2005

vs